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14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 ERICA FRASCO, individually and on behalf of
17 all others similarly situated,

18 Plaintiffs,

19 v.

20 FLO HEALTH, INC., GOOGLE, LLC,
META PLATFORMS, INC., and FLURRY,
21 INC.,

22 Defendants.

Civil Case No. 3:21-cv-00757-JD

**THIRD JOINT STATUS REPORT
REGARDING CLASS NOTICE**

Date: June 23, 2025
Judge: Hon. James Donato
Courtroom: 11 – 19th Floor, SF

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1 Pursuant to the Court's June 2, 2025 Order, ECF No. 619, the Parties in the above-captioned
 2 action submit the third weekly Joint Status Report regarding the status of the notice to the certified
 3 classes.

4 The Parties' second weekly Joint Status Report confirmed that the Parties reached agreement
 5 on language for the Settlement Website, Publication Notice, banner/social media ads, push
 6 notifications, and email notifications. *See* ECF No. 661. At this stage, the Parties can confirm that the
 7 above-listed forms of notice have been provided to potential Class Members as follows:

8 **Class Website.** On June 17, 2025, prior to the dissemination of email, digital, and print
 9 publication notice, A.B. Data published the notice website periodtrackerdataprivacylitigation.com.
 10 The website remains active and conforms to the forms of notice agreed upon by the parties. As of
 11 June 23, 2025, the website has been visited 67,127 times, with 57,551 unique visitors. There has been
 12 a total of 113,176 page views.

13 **Publication Notice.** On June 20, 2025, A.B. Data caused the agreed-upon publication notice
 14 (ECF No. 661-1) to be published in the print version of the *New York Times*. A tear sheet of the
 15 publication is attached as **Exhibit A**.

16 **Banner Ad/Social Media.** Beginning on June 17, 2025, and continuing through June 20,
 17 2025, A.B. Data caused the agreed-upon banner and social media ad (ECF No. 661-2) to be served a
 18 total of 8,521,490 times on the following agreed-upon websites and platforms, resulting in 7,448
 19 clicks through to the website. An example of the banner/social media ad is attached as **Exhibit B**.

- 20 1. Facebook
- 21 2. Instagram
- 22 3. YouTube
- 23 4. Pinterest
- 24 5. Nytimes.com
- 25 6. People.com
- 26 7. Womenshealthmag.com
- 27 8. Parents.com

1 9. Webmd.com

2 10. Drugs.com

3 11. Healthline.com

4 In addition, commencing on June 18, 2025 and continuing through June 23, 2025, Flo reports
5 having published a banner on its website, alerting potential class members to the litigation and
6 directing them to the case website.

7 **Email Notice.** A.B. Data received a total of 3,739,733 email addresses from Flo. A.B. Data
8 reviewed the emails received for duplicate information and subjected the emails to email validation
9 and hygiene review. A.B. Data located 48 duplicate emails and removed 369,533 invalid emails.
10 Beginning on June 17, 2025, A.B. Data sent the agreed upon Email Notice, in tranches and completed
11 the Email Notice Campaign on June 20, 2025. Subject to further confirmation, A.B. Data delivered
12 3,189,794 Notice Emails with 180,358 Email Notices being undeliverable. This is a deliverability
13 rate of 94.6%.

14 **In-App Notice.** On June 14, 2025, the Parties agreed upon language for Flo's in-App
15 notification (ECF No. 661-3). On June 18, 2025, using the agreed upon language, Flo reports that it
16 served notifications through the Flo App alerting potential class members to the litigation and
17 directing them to the case website.

18 In addition, commencing on June 18, 2025 and continuing through June 23, 2025, Flo reports
19 having published a banner on its app, alerting potential class members to the litigation and directing
20 them to the case website. This is in addition to the separate banner published on the homepage of
21 Flo's website.

22 **Opt-Outs.** To date, A.B. Data has received 16 requests to opt out of the Class action, out of
23 the estimated millions of Class Members. A.B. Data will analyze all requests at the close of the opt-
24 out period.

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26 **Issues Remaining in Dispute**

27 **Email Notice.**

1 *Plaintiffs' position.* Plaintiffs note that the provision of email notice continues to be limited to
 2 approximately 3 million email addresses which Plaintiffs do not believe covers the "cumulative
 3 number of U.S. users who ever downloaded and registered for Flo's app" as of March 2019, i.e.,
 4 **13,101,060.** FLO-00106854. *See* ECF No. 661 at 2.

5 *Flo's position.* Flo responds that Plaintiffs are misreading FLO-00106854. *First*, FLO-
 6 00106854 is not limited to the Class Period. Indeed, it covers time both before the start of the Class
 7 Period and after the Class Period. *Second*, Plaintiffs are mistaken to assume every user who registered
 8 with the Flo App shared an email address. As Flo has explained to Plaintiffs on multiple occasions,
 9 that is not the case. In total, between November 1, 2016 and February 28, 2019 ("the Class Period"),
 10 3,739,733 individuals in the U.S. registered to use the Flo App using an email address. No more. **Flo**
 11 **shared with the administrator every single email address (all 3,739,733) that U.S. users shared**
 12 **with Flo during the Class Period.**

13 **Banner Ads.**

14 *Plaintiffs' Position.* Plaintiffs interpret the Court's instruction that notice be completed by
 15 June 23, 2025, to mean that each required step in the notice program be completed by that date, but
 16 not that Flo should discontinue banner ads on that date.

17 *Flo's Position.* On June 2, 2025, the Court ordered that "Notice must be completed by June
 18 23, 2025." ECF 619. The Court's clear instruction that notice "be completed by June 23" applied to
 19 all seven forms of notice ordered by the Court. The TPA has explained that banner ads on social
 20 media and third-party websites will not extend beyond today as the notice campaign already exceeded
 21 the TPA's digital impression goal by more than 300,000. Even so, Plaintiffs' position is that Flo
 22 should continue publishing banner ads on its website and App beyond June 23, the date specified by
 23 the Court as the date by which notice must be "completed." Flo has asked Plaintiffs to identify where
 24 the Court asked for notice beyond June 23, but Plaintiffs have provided no justification.

1 Dated: June 23, 2025

/s/ Carol C. Villegas

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